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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,737	12/21/2000	Derek Barrett	EMC-00-212	4612
24227	7590	12/22/2005		
EMC CORPORATION OFFICE OF THE GENERAL COUNSEL 176 SOUTH STREET HOPKINTON, MA 01748			EXAMINER FRANCIS, MARK P	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/747,737	<b>Applicant(s)</b> BARRETT, DEREK	
	<b>Examiner</b> Mark P. Francis	<b>Art Unit</b> 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to the amendment filed December 02, 2005.
2. Per applicants' request, claims 1,8,9 and 11 have been amended and claims 2-7 and 12-15 have been cancelled.

### ***Response to Amendments***

3. The objection of claims 8 and 9 as containing minor informalities is withdrawn in view of applicant's response.

The rejection of claims 1 and 11 under 35 U.S.C. 112 second paragraph, as being indefinite for containing the term predetermined is withdrawn in view of applicant's amendment.

The rejection of claim 1 under 35 U.S.C. 101 as non-Statutory is withdrawn in view of applicant's amendment.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2193

5. Claims 1,7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maddux (U.S. 2002/0124245) in view Curtis.(U.S. Pat 6,347,397)

Independent claims

Regarding claim 1,

Maddux discloses A system for packaging applications that operate on at least one operating system (e.g. See Figs 1 and 2, and related text), the system, operable on a computer system, comprising:

at least one parameter corresponding to at least one element

used by native utilities on the at least one operating system,(Col 7, sections 0210,0213-0216, "...specific elements...based on parameters..."), and

a process for accessing the native utilities of the operating system based on the at least one parameter, (Col 8, section 0230, "utility FileVer.Exe...", Col 8, section 0254,

"...pushing a native...", Col 35, lines 1-13, "...from a process running..." and See

Abstract, "...using native routines...") but does not disclose that the at least one

parameter identifies the location of the application prior to the application being

packaged, identifies where the application is to be placed after it has been packaged,

identifies a name for the application, identifies an identifier used by an installation utility

in order to identify the application for use by the installation utility, specifies an identifier

unique to the at least one operating system and identifies the particular version of the

application that is to be packaged.

Art Unit: 2193

Curtis discloses that the at least one parameter identifies the location of the application prior to the application being packaged, identifies where the application is to be placed after it has been packaged, identifies a name for the application, identifies an identifier used by an installation utility in order to identify the application for use by the installation utility, specifies an identifier unique to the at least one operating system and identifies the particular version of the application that is to be packaged(Col 9:44-67, "...the filset object contains the fileset name, fileset version, the location of the source files...", Col 10:1-21, "...the fileset which would represent a group of files to be installed...") in an analogous system for the purpose to provide a cross-platform installer that can be used to install products across multiple operating systems. (Curtis:Col 4:42-45)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include a parameter that identifies the location of the application prior to being packaged and after being packaged along with the specifying an identifier unique to a particular operating system to Maddux's invention.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a cross-platform installer that can be used to install products across multiple operating systems. (Curtis:Col 4:42-45)

Regarding claim 11, Maddux discloses a method for building software that operates on at least one operating system comprising the steps of: determining the operating system

Art Unit: 2193

on which the software will operate;(Col 30, "Operating System", Col 31, "Operating System")

providing the location of the files and directories in a server which comprise the software;(Col 31, "Upgrade from")

providing a location on the sever wherein the location is the place in which the files and directories will be placed, (Col 33 and 34, "Apply to Selected machines) wherein in response to steps (a), (b) and (c) utilizing a predetermined set of programs unique to the operating system in order to create a software package capable of being installed on installation media Col 2 and 3, section 0057-0061, "...as either a standalone application ...",Col 5, section 0019-0142, "Deployment Media...") but does not disclose that at least one unique identifier of the software and components of the software are provided to the set of programs.

Curtis discloses disclose that at least one unique identifier of the software and components of the software are provided to the set of programs (Col 9:44-67, "...the fileset object contains the fileset name, fileset version, the location of the source files...for identifying...", Col 10:1-21, "...the fileset which would represent a group of files to be installed...") in an analogous system for the purpose to provide a cross-platform installer that can be used to install products across multiple operating systems. (Curtis:Col 4:42-45)

Art Unit: 2193

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include a parameter that identifies the location of the application prior to being packaged and after being packaged along with the specifying an identifier unique to a particular operating system to Maddux's invention.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a cross-platform installer that can be used to install products across multiple operating systems. (Curtis:Col 4:42-45)

Dependent claims

With respect to claim 9, the rejection of claim 1 is incorporated and further, Maddux discloses wherein the at least one parameter is inputted to the process by a graphical user interface. (Col 29, Console Screen Software Tab)

With respect to claim 10, the rejection of claim 1 is incorporated and further, Maddux discloses a plurality of computers connected to each other by a network(Col 3, sections 0079-0080, "...includes target computers..."), wherein the process resides on at least one of the computers and said process establishes a communication with a second process residing on another one of the at least one of the computers to enable the first process to be used to allow the second process to create a software package utilizing the operating system native to the computer containing the second process.(Col 4,

Art Unit: 2193

section 0014-0018, "...A Dm SQL server provides the data access..." and e.g. See Figs. 1 and 2, and related text)

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maddux in view of Fisher (6,038,399) and further in view of Curtis (U.S. Pat 6,347,397).

The rejection of claim 1 is incorporated and further,

Maddux does not show wherein the at least one parameter is inputted to the process by a command line.

Fisher shows wherein the at least one parameter is inputted to the process by a command line(Col 17, lines 38-53, "...The command line parameters...") in an analogous system for the purpose of providing the ability to install software onto both raw hard drives and assembled computers on the same network. (Col 4, lines 54-58)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include command line parameters to Maddux's invention.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to install software onto both raw hard drives and assembled computers on the same network. (Col 4, lines 54-58)



***Response to Arguments***

7. Applicant's arguments filed on December 12, 2005 have been fully considered with respect to claims 1, 8-11 but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Francis whose telephone number is (571)272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

Art Unit: 2193

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'T. Ingberg', is positioned above the printed name.

**TODD INGBERG  
PRIMARY EXAMINER**